4.4 Cultural, Tribal Cultural, and Paleontological Resources

This section assesses potential impacts to cultural and paleontological resources from the project. Rincon Consultants, Inc. (Rincon) conducted a cultural resources assessment and paleontological resources assessment of the project site, which inform this analysis. The paleontological resources assessment and Native American outreach are included as Appendix D of this EIR.

4.4.1 Summary

Table 19 summarizes the identified environmental impacts, proposed Mitigation Measures, and residual impacts of the proposed project with regard to cultural resources. Additional detail is provided in Section 4.4.3 (Impact Analysis).

Table 19 Impact and Mitigation Summary: Cultural, Tribal Cultural, and Paleontological Resources

Impact	Mitigation Measures	Residual Impact
Impact CR-1. Construction of the proposed project would not involve ground-disturbing activities such as grading and surface excavation, which have the potential to unearth or adversely impact previously identified historical and/or archeological resources. Impacts would be less than significant with mitigation incorporated.	**CR-1 (a) Archaeological Monitoring** Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (NPS 1983). Monitoring activities shall be coordinated with a Native American monitor required under Mitigation Measure CR-3(a). If archaeological resources are encountered during ground-disturbing activities, work in the immediate area shall halt, the County shall be notified, and the find shall be evaluated for significance under CEQA. Archaeological monitoring may be reduced or halted at the discretion of the monitor as warranted by conditions such as encountering bedrock, ground disturbance is occurring in fill, or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). **CR-1 (b) Unanticipated Discovery of Cultural Resources** If cultural resources are encountered during ground-disturbing activities, work in the immediate area and within 50 feet of the discovery shall halt and the qualified archaeologist shall implement a Phase II subsurface testing program to determine resource boundaries, assess the integrity of the resource, and evaluate the resource's significance through a study of its features and artifacts. Construction activities can continue in areas 50 feet away from the find and not associated with the cultural resource location. If the resource is determined not to be significant, no further archaeological investigation or mitigation shall be required. If the resource is determined to be significant, the County of Monterey may choose to allow the capping of the area containing the resource using culturally sterile and chemically neutral fill material. If such capping	Implementation of Mitigation Measures CR-1(a) and CR-1(b) would reduce impacts to previously unidentified archaeological resources to a less than significant level.

Impact	Mitigation Measures	Residual Impact
	occurs, then the qualified archaeologist shall monitor the placement of fill upon the resource. If a significant resource will not be capped, the results and recommendations of the Phase II study shall determine the need for a Phase III data recovery program designed to record and remove significant cultural materials that could otherwise be tampered with or disturbed by project construction. If a Phase III data recovery program is warranted, a Cultural Resources Data Recovery Plan shall be developed by the qualified archaeologist to outline excavation and laboratory procedures. The plan shall be submitted to the County for review and approval prior to proceeding with grading and construction activities. Upon completion of monitoring and any necessary Phase II and/or Phase III excavation, a report shall be submitted to the County for review and approval. **Monitoring Action:** Prior to issuance of grading or construction permits and prior to ground disturbing activities, the applicant shall submit a copy of an executed agreement with a qualified archeologist providing the required monitoring services, to the Chief of Planning for review and approval. Prior to final building inspection, the applicant shall submit a letter from a qualified archeologist detailing how the monitoring requirements were met.	
Impact CR-2. Construction of the proposed project would involve ground-disturbing activities such as grading and surface excavation, which have the potential to unearth or adversely impact previously unidentified paleontological resources. Impacts would be Less Than Significant with Mitigation Incorporated.	**CR-2 (a) Paleontological Worker Environmental Awareness Program** Prior to the start of construction, a project paleontologist who meets the standards of the SVP (2010) or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying the County and the project paleontologist should fossils be discovered by construction staff. The Worker Awareness Program (WEAP) training requirement shall be fulfilled at the time of a preconstruction meeting. **CR-2 (b) Paleontological Monitoring** Ground-disturbing construction activities (including grading, trenching, foundation work, and other excavations) in previously undisturbed sediments that exceed 10 feet in depth shall be monitored on a full-time basis during initial ground disturbance. Monitoring shall be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources and meets the minimum standards of the SVP (2010). The duration and timing of the monitoring shall be determined by the project paleontologist and based upon the location and extent of proposed ground disturbance. If the project paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, the project paleontologist may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring is not necessary in artificial fill or for activities that do not reach 10 feet in depth. **CR-2 (c) Unanticipated Discovery of Paleontological Resources** In the event of a fossil discovery during construction, all work in the immediate vicinity of the find shall cease. A qualified paleontologist shall evaluate the find before restarting	Implementation of Mitigation Measure CR-2 (a) through CR-2 (c) would reduce impacts to previously unidentified paleontological resources to a less than significant level.

Impact	Mitigation Measures	Residual Impact
	construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant as defined by the SVP (2010), the project paleontologist shall notify the County and complete the following actions to mitigate impacts to significant fossil resources: 1) **Salvage of Fossils.** The project paleontologist (or paleontological monitor) shall recover significant fossils following standard field procedures for collecting paleontological resources, as described by the SVP (2010). Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the paleontologist shall have the authority to temporarily direct, divert, or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. 2) **Preparation and Curation of Recovered Fossils.** Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the University of California Museum of Paleontology), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the project paleontologist. **Monitoring Action:** Prior to issuance of grading or construction permits and prior to any ground disturbing activities, the applicant shall submit a copy of an executed agreement with a qualified paleontologist to provide the required monitoring services, to the Chief of Planning for review and approval. Prior to final building inspection, the applicant shall submit a letter from a qualified paleontologist detailing how the monitoring requirements were met.	
Impact CR-3. Construction of the proposed project would involve ground-disturbing activities such as grading and surface excavation, which have the potential to unearth or adversely impact previously unidentified human remains. Impacts would be less than significant with mitigation Incorporated.	Implementation of **Mitigation Measures CR-1 and CR-4** is required.	Impacts would be less than significant with implementation of Mitigation Measures CR-1 and CR-4.
Impact CR-4. The proposed project would involve construction activities that have the potential to adversely impact tribal cultural resources, though no tribal cultural resources have been identified within	**CR-4 (a) Native American Monitoring** An OCEN Tribal Monitor shall be retained to be on site to monitor all project-related ground-disturbing construction activities (i.e., grading, excavation, potholing, etc.) within previously undisturbed soils. **CR-4 (b) Unanticipated Discovery of Tribal Cultural Resources** In the event the OCEN Tribal Monitor identifies tribal cultural resources, the monitor shall be given the authority to	Implementation of Mitigation Measure CR-4 (a) and CR-4(b) would reduce impacts to previously unidentified tribal

Impact	Mitigation Measures	Residual Impact
the project site. Impacts would be Less Than Significant with Mitigation Incorporated.	temporarily halt construction in the immediate vicinity and within 50 feet of the discovery and to determine if it is a tribal cultural resource under CEQA in consultation with the County of Monterey and, if necessary, the qualified archaeologist. Construction activities can continue in areas 50 feet away from the find and not associated with the cultural resource location. If the discovery proves to be significant, additional work such as testing or data recovery may be warranted. Any resources found should be treated with appropriate dignity and respect. At the completion of monitoring activities, all artifacts of Native American origin shall be returned to OCEN through the tribal monitor. Monitoring Action: Prior to issuance of building or grading permits, the applicant shall provide appropriate agreements with an OCEN Tribal monitor to the Chief of Planning for review and approval. Prior to final building permit inspection, the applicant shall provide documentation in writing including photos demonstrating that the mitigation was implemented during construction activities.	cultural resources to a less than significant level.

4.4.2 Setting

a. Regional Setting

Historic Background

Prehistory

The project area lies in what is generally described as the Central Coast Archaeological Region, one of eight organizational divisions of the state (Moratto 1984). This region extends from Monterey Bay to Morro Bay, and includes all of Monterey County.

Several chronological sequences have been devised to understand cultural changes in the Central Coast Region from the Milling Stone period to contact. Jones and Ferneau (2002) present the following sequence: Milling Stone, Early, Early-Middle Transition, Middle, Middle-Late Transition, and Late periods. The archaeology of the Central Coast Region subsequent to the Milling Stone period is distinct from that of the Bay Area and Central Valley, although the region has more in common with the Santa Barbara Channel area during the Middle and Middle-Late Transition periods, but few similarities during the Late period (Jones & Ferneau 2002).

Paleo-Indian Period (ca. 10,000 to 6,000 B.C.)

When Wallace developed the Early Man horizon in the 1950s, little evidence of human presence was known for the southern California coast prior to 6000 B.C. Archaeological work in the intervening years has identified numerous sites older than this date, including coastal and Channel Islands sites (e.g., Erlandson 1991, Johnson et al. 2002, Moratto 1984). The earliest accepted dates for occupation are from two of the Northern Channel Islands, located off the coast from Santa Barbara. On San Miguel Island, Daisy Cave clearly establishes the presence of people in this area approximately 10,000 years ago (Erlandson 1991). On Santa Rosa Island, human remains have been dated from the Arlington Springs site to approximately 13,000 years ago (Johnson et al. 2002).

Only a few archaeological sites within the Central Coast Region are documented prior to 6,000 years ago. It is likely that most earlier coastal sites are presently under water because it is estimated that 10,000 years ago sea levels were 15 to 20 meters lower than today (Bickel 1978). Estimates place the early Holocene shore in central and southern California at approximately 10 kilometers farther west than today's coastline (Breschini and Haversat 1991).

Recent data from Paleo-Indian sites in southern California indicate that the economy was a diverse mixture of hunting and gathering, with a major emphasis on aquatic resources in many coastal areas (Jones et al. 2002) and on Pleistocene lake shores in eastern California (Moratto 1984).

Milling Stone Period (6000 to 3000 B.C.)

The Milling Stone horizon of Wallace (1955, 1978) is characterized by an ecological adaptation to collecting, and by the dominance of the principal ground stone implements generally associated with the horizontal motion of grinding small seeds, namely milling stones (metates, slabs) and hand stones (manos, mullers), which are typically shaped (Wallace 1955, 1978). Milling stones occur in large numbers for the first time in the region's archaeological record, and are even more numerous near the end of this period. As testified by their toolkits and shell middens in coastal sites, people during this period practiced a mixed food procurement strategy. Subsistence patterns varied somewhat as groups became better adapted to their regional or local environments.

Early Period and Early-Middle Transition Period (3500 to 600 B.C.)

Although Jones and Ferneau (2002) have distinguished an Early-Middle Transition period, it is not well-defined and is difficult to observe. Thus the transition phase is included in the following discussion of the sites and characteristics recognized for the Early Period in the Central Coast Region.

An extensive series of shoreline midden deposits are in the Central Coast Region during the Early period, signifying an increase in occupation of the open coast (Jones and Waugh 1997). These include estuarine sites such as CA-SLO-165 in Estero Bay and open-coast sites in Monterey Bay area, including CA-MNT-73, CA-MNT-108, and CA-MNT-1228. Lithic artifact assemblages from these sites include Central Coast Stemmed Series and side-notched projectile points. Square-stemmed and side-notched points have also been found in deposits at Willow Creek in Big Sur (CA-MNT-282) and Little Pico II on the San Luis Obispo coast (CA-SLO-175) (Jones and Ferneau 2002).

The material culture recovered from Early period sites in the Central Coast Region provides evidence for continued exploitation of inland plant and coastal marine resources. Artifacts include milling slabs and handstones, as well as mortars and pestles, which were used for processing a variety of plant resources. Bi-pointed bone gorge hooks were used for fishing. Assemblages also include a suite of Olivella beads, bone tools, and pendants made from talc schist. Square abalone shell (Haliotis spp.) beads have been found in Monterey Bay, but not in the Big Sur or San Luis Obispo areas (Jones and Waugh 1997).

Shell beads and obsidian are hallmarks of the trade and exchange networks of the central and southern California coasts. The archaeological record indicates that there was a substantial increase in the abundance of obsidian at Early period sites in the Monterey Bay and San Luis Obispo areas (Jones and Waugh 1997). Obsidian trade continued to increase during the following Middle period.

Middle Period (600 B.C. to A.D. 1000)

A pronounced trend toward greater adaptation to regional or local resources occurred during the Middle period. For example, the remains of fish, land mammals, and sea mammals are increasingly abundant and diverse in archaeological deposits along the coast. Chipped stone tools used for hunting were more abundant and diversified, and shell fishhooks became part of the toolkit during this period. Large knives, a variety of flake scrapers, and drill-like implements are common during this period. Projectile points include large side-notched, stemmed, and lanceolate or leaf-shaped forms. Bone tools, including awls, are more numerous than in the preceding period, and the use of asphaltum adhesive became common.

Complex maritime technology also proliferated during this period. Notable introductions included circular shell fishhooks between 1000 and 500 B.C. (Jones and Klar 2005), and the appearance of compound bone fishhooks between A.D. 300 and 900 (Arnold 1995, Jones and Klar 2005 King 1990). The introduction of shell fishhooks and plank canoes in the southern portion of the region and tule reed or balsa rafts in the north, their subsequent modifications, and the increased use of other capture devices such as nets appear to have led to a substantial focus on fishing in most coastal areas. A seasonal round settlement pattern was still followed. However, large, permanently occupied settlements, particularly in coastal areas, appear to have been the norm by the end of the period (Jones et al. 2007).

Middle-Late Transition Period (A.D. 1000 to 1250)

The Middle-Late Transition period is marked by relative instability and change, with major changes in diet, settlement patterns, and interregional exchange. The Middle period shell midden sites found along the Central Coast were abandoned by the end of the Middle-Late Transition period, so most Transition period and Late period sites were first occupied during those periods (Jones and Ferneau 2002).

During the Middle to Late Transition period, projectile points diagnostic of both the Middle and Late periods are found in the Central Coast Region (Jones and Ferneau 2002). These points include large, contracting-stemmed types typical of the Middle period, as well as Late period small, leaf-shaped points, which likely reflect the introduction of the bow and arrow.

Late Period (A.D. 1250 to Historic Contact)

As noted above, Late period sites are marked by small, finely worked projectile points, as well as temporally diagnostic shell beads. The small projectile points are associated with bow and arrow technology. Although shell beads were typical of coastal sites, trade brought many of these maritime artifacts to inland locations, especially during the latter part of the Late period.

Unlike the large Middle period shell middens, Late period sites are more frequently single-component deposits. There are also more inland sites, with fewer and less visible sites along the Pacific shore during the Late period. The settlement pattern and dietary reconstructions indicate a lesser reliance on marine resources than observed for the Middle and Middle-Late Transition periods, as well as an increased preference for deer and rabbit (Jones et al. 2007). An increase in sites with bedrock mortars during the Late period further suggests that nuts and seeds began to take on a more significant dietary role.

Ethnographic Context

The project area lies in an area traditionally occupied by the Ohlone (or Costanoan) people. Ohlone territory extends from the point where the San Joaquin and Sacramento Rivers issue into the San Francisco Bay to Point Sur, with the inland boundary most likely constituted by the interior Coast Ranges (Kroeber 1925). The Ohlone language belongs to the Penutian family, with several distinct dialects throughout the region (Kroeber 1925).

The pre-contact Ohlone were semi-sedentary, with a settlement system characterized by base camps of tule reed houses and seasonal specialized camps (Skowronek 1998). Villages were divided into small polities, each of which was governed by a chief responsible for settling disputes, acting as a war leader (general) during times of war, and supervising economic and ceremonial activities (Skowronek 1998, Kroeber 1925). Social organization appeared flexible to ethnographers and any sort of social hierarchy was not apparent to mission priests (Skowronek 1998).

Ohlone subsistence was based on hunting, gathering, and fishing (Kroeber 1925, Skowronek 1998). Mussels were a particularly important food resource (Kroeber 1925). Sea mammals were also important. Sea lions and seals were hunted and beached whales were exploited (Kroeber 1925). Like the rest of California, the acorn was an important staple and was prepared by leaching acorn meal both in openwork baskets and in holes dug into the sand (Kroeber 1925). The Ohlone also practiced controlled burning to facilitate plant growth (Kroeber 1925, Skowronek 1998).

Seven Franciscan missions were built in Ohlone territory in the late 1700s, and all members of the Ohlone group were eventually brought into the mission system (Kroeber 1925 Skowronek 1998). After the establishment of the missions, Ohlone population dwindled from roughly 10,000 people in 1770 to 1,300 in 1814 (Skowronek 1998). In 1973, the population of people with Ohlone descent was estimated at fewer than 300 (Levy 1978). The descendants of the Ohlone have since arranged political and cultural organizations to revitalize aspects of their culture (Skowronek 1998). The Monterey County General Plan states that the Ohlone/Costanoan-Esselen Nation is a Native American Heritage Commission-identified Most Likely Descendant (MLD) for the region.

Historic Context

The Monterey County coast was first visited by Europeans in 1542 with the expedition of Juan Rodriguez Cabrillo and later in 1602 by Sebastian Vizcaino (Bean 1968). The Spanish presidio at Monterey and the mission in Carmel were established in in 1770, and served as the capital of the California missions until 1803 (California Missions Foundation 2017). In 1791, Comandante General Pedro de Nava authorized the establishment of presidial pueblos (civilian lands around military forts) with detailed regulations for their organization (Crane 1991). The Pueblo of Monterey grew in population as Spanish soldiers married and raised families, or retired to this location.

In 1822 California received word of Mexico's independence from Spain. At this time, the Pueblo of Monterey had a population of several hundred and the newly established Mexican government decreed the California ports open to increased trade with foreigners under the constitution of 1824 (Bean 1968, Crane 1991). Hallmarks of the Mexican Period in California are the secularization of mission lands, which was fully accomplished by 1836, and the issuance of large and numerous land grants to soldiers and prominent citizens. During the Mexican Period, the project site was within the land grant Cañada de la Segunda, granted to Lazaro Zoto in 1839.

The Treaty of Guadalupe Hidalgo was signed in 1848, ending the Mexican-American War and officially making California a territory of the United States. U.S. jurisdiction over California had really begun two years earlier, when on July 7, 1846, Commodore John D. Sloat raised the U.S. flag after

the “Battle of Monterey,” during which 50 U.S. Marines and 100 Navy sailors landed unopposed and captured the city without firing a shot (Crane 1991). The Gold Rush brought a multitude of new settlers to California in 1848 and the construction of the transcontinental railroad in 1869 contributed further to California’s population boom.

Since that time, California has experienced tremendous growth to become one of the dominant economies in the world. Monterey County is a popular tourist destination, famous for its golf courses, resorts, the Monterey Bay Aquarium, and Cannery Row, which was made famous by John Steinbeck in his titular novel. Steinbeck was born in the city of Salinas, roughly 20 miles from Carmel, and Monterey County has served as the setting for several of his books. Monterey County has remained largely agricultural and the Salinas Valley has been called the “Salad Bowl of the World.”

Carmel-by-the-Sea

In 1602, Sebastian Vizcaino was accompanied by three friars when they found a river valley which they named “El Rio Carmelo” (Carmel Chamber of Commerce 2017). The second California mission, San Carlos Borromeo de Carmelo, was later founded in 1770 and was secularized in 1833. Spanish settlement of the area led to later American settlement and the eventual founding of the City of Carmel. With a population of nearly 450, Carmel was incorporated on October 31, 1916 (Carmel Chamber of Commerce 2017).

Residents of the newly incorporated city consisted of artists, intellectuals, and environmental preservationists. After the San Francisco earthquake of 1906, migrants settled in Carmel, which prompted the area to be a progressive artistic and cultural hub of the Monterey Bay Area (Carmel Chamber of Commerce 2017). Strong natural preservationists and advocates for maintaining the natural beauty of their community, local residents passed Ordinance No. 7 in 1917. The law made it a misdemeanor to “cut down, remove, injure or mutilate any tree, shrub or bush growing or standing on any of the streets, squares, parks or public places,” and is strictly enforced to this day (Carmel Chamber of Commerce 2017).

From the 1920s to the 1970s, the economy fluctuated due to the Great Depression and World War II, yet the artistic community prevailed. From 1986 to 1988, actor Clint Eastwood served as mayor, bringing world renown to Carmel-by-the-Sea (Carmel Chamber of Commerce 2017). Today, Carmel maintains the same integrity of the artistic, intellectual, and naturalist community as it did when first incorporated 100 years ago.

b. Project Site Setting

The project is located in the southeastern Coastal Ranges Geomorphic Province, one of 11 major provinces in the state (California Geological Survey [CGS] 2002). The Coast Ranges province is bounded to the east by the Great Valley, to the northeast by the Klamath Mountains, to the south by the Transverse Ranges, and to the west by the Pacific Ocean (Norris and Webb 1990). It is divided into two subprovinces: the ranges south of San Francisco Bay to Santa Barbara County and the ranges north of the bay. This subdivision coincides with the northern ranges located east of the San Andreas Fault zone and the southern ranges mostly to the west (Norris and Webb 1990). The southern Coast Ranges, where the project area is located, are lower in elevation with less rainfall than the northern Coast Ranges, and consequently have less vegetation.

The Coast Ranges record a thick sequence of sedimentary strata dating back to the Mesozoic Franciscan Melange (~251 million years ago), with granitic and metamorphic rocks of the Salinian

block present in the southern Coast Ranges, where the project is located (Norris and Webb 1990). The Franciscan Melange records deposition of volcanic and clastic sediments into a subduction zone during the Mesozoic era, followed by subsequent metamorphism (Wakabayashi 2015). Later, Paleocene deposits of marine sandstone with igneous conglomerate lenses belonging to the Carmelo Formation were deposited, followed by Miocene marine mudstones belonging to the Monterey Formation (Storlazzi and Field 2000). More recently, the Pleistocene history of the region (2.6 million to 10,000 years ago) is marked by glacially controlled sea level fluctuations and tectonic uplift during which the shoreline advanced and retreated as much as 30 miles across the continental shelf, carving a series of marine terraces along the coast (Norris and Webb 1990).

4.4.2.1 Existing Conditions

Cultural Resources

Rincon Consultants, Inc. completed a Cultural Resources Assessment in September 2017. The study consisted of a cultural resources records search, map review, Native American outreach, and a pedestrian survey. Based on a review of the Monterey County Archaeological Sensitivity Maps, the project site is in an area considered to have High archaeological sensitivity.

No cultural resources were identified at the project site as a result of the records search, Sacred Lands File (SLF) search, and pedestrian survey. No structures are present within the project site and no surface evidence of an archaeological site was identified during the pedestrian survey. However, four resources containing a prehistoric component and one Mission-period resource were identified within a 0.5-mile (0.8-kilometer) radius of the project site, and the project site is located only 0.62-mile (1 kilometer) from the Carmel Mission. Of the resources identified in the records search radius, one, site P-27-000393, is located approximately 240 feet (80 meters) north of the project site. Site P-27-000393 was recorded in 1984 by W.A. Waldron, P. Oman, and J. McManus as a small remnant of Site P-27-000290 (number now discarded), recorded in 1951 and later destroyed. Site P-27-000393 consists of a small remnant of a prehistoric shell midden that includes abalone, oyster, clam, and mussel. The mapped boundary for P-27-000393 includes the boundary for both P-27-000393 and P-27-000290. Non-shell constituents include burnt animal bone, fire-affected rock, charcoal, a mano fragment, and chert flakes.

As a result of the study, no cultural resources were identified within the project site, including no historic built-environment resources and no archaeological resources. However, based on a review of the Monterey County Archaeological Sensitivity Maps and the presence of nearby resources, the project site is in an area considered to have high archaeological sensitivity.

Tribal Cultural Resources

In accordance with AB 52, the County of Monterey prepared and mailed notification letters to Fred Segobia of the Salinan Tribe of Monterey and San Luis Obispo and Louise Miranda-Ramirez of the Ohlone/Costanoan-Esselen Nation (OCEN) on August 18, 2017 (Appendix E). Under AB 52, tribes have 30 days to respond and request consultation. On September 12, 2017, the County of Monterey met with Louise Miranda-Ramirez, Tribal Chairwoman of OCEN, to discuss the proposed project. Chairwoman Miranda-Ramirez noted the proximity of the project to the Carmel River and the Carmel Mission, indicating sensitivity for potential cultural resources, but did not identify any specific tribal cultural resources within the project site. OCEN, as a matter of practice, objects to all earthwork with the potential to disturb cultural resources. When development occurs, they recommend that an OCEN Tribal monitor be present to observe ground-disturbing activities with the

power to stop grading/excavation. Chairwoman Miranda-Ramirez further requested that any identified artifacts be returned to the tribe through the tribal monitor and that if Native American human remains are found that, in addition to the legally required steps, they be reburied on-site or on an acceptable alternative site provided by the developer together with any artifacts found with the burial.

Paleontological Resources

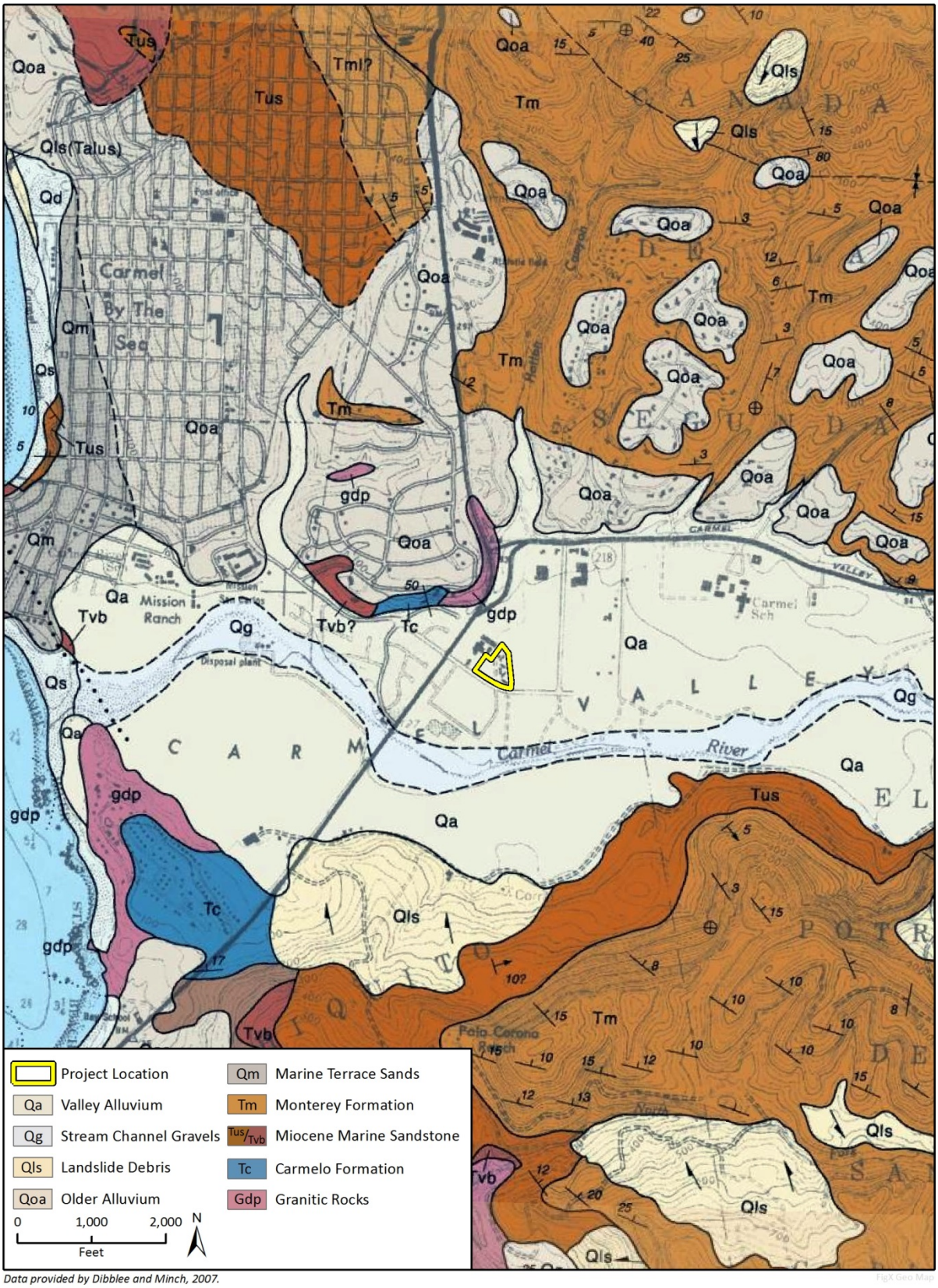
Fossils are preserved evidence of past life, which can include body fossils, such as bones or shell, as well as trace fossils, such as burrows or footprints. As defined by the SVP, fossils must be older than 5,000 years (SVP 2010). Fossils are commonly preserved in sedimentary rocks, which are present beneath the recent sediments that make up the surface of the project area (Figure 19). Monterey County has a rich fossil record of both invertebrate (Bromley et al. 2003, Durham 1965, UCMP 2017) and vertebrate fossils (Hope et al. 2003, UCMP 2017).

Rincon completed a paleontological sensitivity assessment for the proposed project in 2017 (Appendix D). Rincon evaluated the paleontological sensitivity of the geologic units present on the project site based on a review of existing information in the primary literature on known fossils in those geologic units, review of previous geotechnical studies of the project site, and a records search from the University of California Museum of Paleontology (UCMP) for fossil localities in the vicinity of the project area. Rincon assigned paleontological sensitivity to each geologic unit within the project site.

The SVP (2010) describes sedimentary rock units as having high, low, undetermined, or no potential for containing significant nonrenewable paleontological resources. This criterion is based on rock units within which vertebrate or significant invertebrate fossils have been determined by previous studies to be present or likely to be present. While these standards were specifically written to protect vertebrate paleontological resources, all fields of paleontology have adopted these guidelines. Rock units from which significant vertebrate or significant invertebrate fossils or significant suites of plant fossils have been recovered are considered to have a high potential for containing significant non-renewable fossiliferous resources. Geologic units considered to have low sensitivity include sedimentary rock units that are potentially fossiliferous, but have not yielded fossils in the past or contain common and/or widespread invertebrate fossils of well-documented and understood taphonomic, phylogenetic species and habitat ecology. Specific areas underlain by sedimentary rock units for which little information is available are considered to have undetermined fossiliferous potentials. Field surveys by a qualified vertebrate paleontologist to specifically determine the potentials of the rock units are required before programs of impact mitigation for such areas may be developed. Rock units of metamorphic or igneous origin are commonly classified as having no potential for containing significant paleontological resources. For a full description of the SVP sensitivity criteria, see the paleontological resources assessment in Appendix D (Rincon Consultants, Inc. 2017).

Records of the UCMP indicate that the Miocene Monterey Group has produced significant fossils in the vicinity of the project site, including a megalodon shark tooth (Charcharodon megalodon) from along Carmel Road and numerous invertebrate fossils, such as gastropods and bivalves, to the west of the project area (Holroyd 2017). Additionally, fish fossils (Oligodiodon, Squatina, and Myliobatis) are known from the Monterey Group elsewhere in Monterey County (UCMP 2017). The Monterey Group outcrops to the north and south of the Carmel Valley, where the project site is located (Dibblee and Minch 2007), and is likely present in the subsurface of the project site. Pleistocene sediments of an age to preserve fossils outcrop just to the north of the project area inside the

Figure 19 Geologic Units within the Project Site and Vicinity



Carmel Valley (Dibblee and Minch 2007), and are also likely present in the subsurface of the project site. Pleistocene fossils recovered from Monterey County include horses (Equus), ground sloth (Glossotherium), camel (Camelops), and bison (Bison) (UCMP 2017).

While the surficial alluvial sediments are too young to preserve fossil resources (Dibblee and Minch 2007, Figure 19), and therefore have low paleontological sensitivity, these sediments overlie older sediments. These older sediments, as discussed above, have a history of preserving significant fossil resources and therefore have high paleontological sensitivity.

4.4.2.2 Regulatory Setting

This section includes a discussion of the applicable State and local laws, ordinances, regulations, and standards governing cultural resources, which must be adhered to before and during implementation of the proposed project.

National Register of Historic Places

The National Register of Historic Places (NRHP) was established by the National Historic Preservation Act (NHPA) of 1966 as "an authoritative guide to be used by federal, State, and local governments, private groups, and citizens to identify the Nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment" (CFR 36 CFR

60.2). The NRHP recognizes properties that are significant at the national, State, and local levels. To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. Districts, sites, buildings, structures, and objects of potential significance must also possess integrity of location, design, setting, materials, workmanship, feeling, and association. A property is eligible for the NRHP if it is significant under one or more of the following criteria:

Criterion A: It is associated with events that have made a significant contribution to the broad patterns of our history

Criterion B: It is associated with the lives of persons who are significant in our past

Criterion C: It embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction

Criterion D: It has yielded, or may be likely to yield, information important in prehistory or history

California Register of Historical Resources

CEQA (Section 21084.1) requires that a lead agency determine whether a project could have a significant effect on historical resources and tribal cultural resources (PRC Section 21074 [a][1][A]-[B]). A historical resource is a resource listed in or determined to be eligible for listing in the CRHR (Section 21084.1), a resource included in a local register of historical resources (Section 15064.5[a][2]), or any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant (Section 15064.5[a][3]).

PRC Section 5024.1 requires an evaluation of historical resources to determine their eligibility for listing in the CRHR. The purpose of the register is to maintain listings of the state's historical

resources and to indicate which properties are to be protected from substantial adverse change. The criteria for listing resources in the CRHR were expressly developed to be in accordance with previously established criteria developed for listing in the NRHP, as enumerated according to CEQA below:

> 15064.5(a)(3) […] Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, § 5024.1, Title 14 CCR, Section 4852) including the following:
>
> (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
>
> (2) Is associated with the lives of persons important in our past;
>
> (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
>
> (4) Has yielded, or may be likely to yield, information important in prehistory or history.
>
> 15064.5(a)(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.
>
> 15064.5(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

In addition, if a project can be demonstrated to cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to permit any or all of these resources to be preserved in place or left in an undisturbed state. To the extent that resources cannot be left undisturbed, Mitigation Measures are required (PRC, Section 21083.2[a], [b], and [c]).

PRC, Section 21083.2(g) defines a unique archaeological resource as an artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it does one or more of the following:

1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information
2. Has a special and particular quality such as being the oldest of its type or the best available example of its type
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person

Impacts to significant cultural resources that affect the characteristics of any resource that qualify it for the NRHP or adversely alter the significance of a resource listed in or eligible for listing in the CRHR are considered a significant effect on the environment. These impacts could result from physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (*CEQA*

Guidelines, Section 15064.5 [b][1], 2000). Material impairment is defined as demolition or alteration in an adverse manner [of] those characteristics of an historical resource that convey its historical significance and that justify its inclusion or eligibility for inclusion in the CRHR (*CEQA Guidelines*, Section 15064.5[b][2][A]).

California Public Resources Code

The California Public Resources Code (PRC) also protects paleontological resources in specific contexts. In particular, PRC Section 5097.5 prohibits "knowing and willful" excavation, removal, destruction, injury, and defacement of any paleontological feature on public lands without express authorization from the agency with jurisdiction. Violation of this prohibition is a misdemeanor and is subject to fine and/or imprisonment (PRC § 5097.5[c]), and persons convicted of such a violation may also be required to provide restitution (PRC § 5097.5[d][1]). Additionally, PRC Section 30244 requires "reasonable Mitigation Measures" to address impacts on paleontological resources identified by the State Historic Preservation Officer.

Section 5097.5 of the PRC states, "No person shall knowingly and willfully excavate upon, or remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor."

As used in this PRC section, "public lands" means lands owned by or under the jurisdiction of the State or any city, county, district, authority, or public corporation, or any agency thereof. Consequently, local agencies are required to comply with PRC 5097.5 for their own activities, including construction and maintenance, as well as for permit actions (e.g., encroachment permits) undertaken by others.

Assembly Bill 52

California Assembly Bill 52 of 2014 (AB 52) expanded CEQA by defining a new resource category, "tribal cultural resources." Assembly Bill 52 establishes that "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3). PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe," and meets either of the following criteria:

a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe

In recognition of California Native American tribal sovereignty and the unique relationship of California local governments and public agencies with California Native American tribal governments, and respecting the interests and roles of project proponents, it is the intent AB 52 to accomplish all of the following:

(1) Recognize that California Native American prehistoric, historic, archaeological, cultural, and sacred places are essential elements in tribal cultural traditions, heritages, and identities.

(2) Establish a new category of resources in CEQA called "tribal cultural resources" that considers the tribal cultural values in addition to the scientific and archaeological values when determining impacts and mitigation.

(3) Establish examples of Mitigation Measures for tribal cultural resources that uphold the existing mitigation preference for historical and archaeological resources of preservation in place, if feasible.

(4) Recognize that California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated. Because CEQA calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources.

(5) In recognition of their governmental status, establish a meaningful consultation process between California Native American tribal governments and lead agencies, respecting the interests and roles of all California Native American tribes and project proponents, and the level of required confidentiality concerning tribal cultural resources, at the earliest possible point in CEQA environmental review process, so that tribal cultural resources can be identified, and culturally appropriate mitigation and mitigation monitoring programs can be considered by the decision-making body of the lead agency.

(6) Recognize the unique history of California Native American tribes and uphold existing rights of all California Native American tribes to participate in, and contribute their knowledge to, the environmental review process pursuant to CEQA.

(7) Ensure that local and tribal governments, public agencies, and project proponents have information available, early in CEQA environmental review process, for purposes of identifying and addressing potential adverse impacts to tribal cultural resources and to reduce the potential for delay and conflicts in the environmental review process.

(8) Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources.

(9) Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. AB 52 requires that lead agencies "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

Codes Governing Human Remains

The disposition of human remains is governed by Health and Safety Code Section 7050.5 and PRC Sections 5097.94 and 5097.98, and falls within the jurisdiction of the NAHC. If human remains are discovered, the County Coroner must be notified within 48 hours and there should be no further disturbance to the site where the remains were found. If the remains are determined by the coroner to be Native American, the coroner is responsible for contacting the NAHC within 24 hours. The NAHC, pursuant to PRC Section 5097.98, will immediately notify those persons it believes to be most likely descended from the deceased Native Americans so they can inspect the burial site and make recommendations for treatment or disposal.

County of Monterey General Plan

The Conservation/Open Space Element of the County of Monterey General Plan contains several goals and policies relating to cultural and paleontological resources applicable to this project. Goal OS-6 focuses on the identification and protection of archaeological resources. Associated policies applicable to the current project include the completion of a Phase I cultural resources study for new development in all areas within moderate or high sensitivity areas (Policy OS-6.3) and encouraging development design to avoid cultural resources (Policy OS-6.5). Goal OS-7 focuses on the identification and protection of paleontological resources. Associated policies relevant to the current project include the identification and protection of unique paleontological sites and the completion of a paleontological assessment for projects (Policy OS-7.1), paleontological field inspections in high and moderate sensitivity zones and known fossil bearing formations (Policy OS-7.3), and encouraging development to avoid impacts to significant paleontological resources (Policy OS-7.5). Goal OS-8 encourages the protection of Native American resources. Policies associated with this goal relevant to the current project include encouraging all interested Native Americans to participate in CEQA data review and the evaluation stages of cultural resources policy implementation and designating the Ohlone/Costanoan-Esselen Nation as the clearinghouse group for the coordination of data recovery and monitoring (Policy OS-8.7).

Carmel Valley Master Plan

The Carmel Valley Master Plan contains Policy CV-3.13 regarding historic and archaeological resources and relevant to the current project. The policy requires that all buildings and sites of historical significance be reviewed on a site by site basis and calls for the preservation of the integrity of historic sites and/or structures.

4.4.3 Impact Analysis

a. Methodology and Significance Thresholds

The analysis of cultural resources impacts is based on empirical research presented in the Cultural Resources Assessment prepared for the proposed project. Analysis of paleontological resources impacts is based on results presented in the Paleontological Resources Assessment prepared for the proposed project (Appendix D). The methodologies and significance thresholds employed for the cultural resources impact analyses are described below and in Section 4.4.2.4, *Regulatory Setting*, above.

In accordance with Appendix G of the *CEQA Guidelines*, an impact to cultural and paleontological resources is considered significant if it can be demonstrably argued that the project would:

1. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines §15064.5;
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5;
3. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; and/or
4. Disturb any human remains, including those interred outside of dedicated cemeteries.

The significance of an archaeological deposit and subsequently the significance of any impact are determined by the criteria established in the *CEQA Guidelines,* as provided in the *Regulatory Setting*.

If an archaeological resource does not meet either the historical resource or the more specific "unique archaeological resource" definition, impacts do not need to be mitigated [13 PRC 15064.5 (e)]. Where the significance of a site is unknown, it is presumed to be significant for the purpose of the EIR investigation.

The potential for impacts to significant paleontological resources is based on the potential for ground disturbance to directly impact paleontologically sensitive geologic units. CEQA does not define "a unique paleontological resource or site." However, the SVP broadly defines significant paleontological resources as follows (SVP 2010):

> "Fossils and fossiliferous deposits consisting of identifiable vertebrate fossils, large or small, uncommon invertebrate, plant, and trace fossils, and other data that provide taphonomic, taxonomic, phylogenetic, paleoecologic, stratigraphic, and/or biochronologic information. Paleontological resources are considered to be older than recorded human history and/or older than middle Holocene (i.e., older than about 5,000 radiocarbon years)."

The loss of paleontological resources that meet the criteria outlined above (i.e. considered a significant paleontological resource) would be considered a significant impact under CEQA, and the CEQA lead agency is responsible for ensuring that paleontological resources are protected in compliance with CEQA and other applicable statutes.

Significant paleontological resources are determined to be fossils or assemblages of fossils that are unique, unusual, rare, diagnostically important, or are common but have the potential to provide valuable scientific information for evaluating evolutionary patterns and processes, or which could improve our understanding of paleochronology, paleoecology, paleophylogeography, or depositional histories. New or unique specimens can provide new insights into evolutionary history. However, additional specimens of even well-represented lineages can be equally important for studying evolutionary pattern and process, evolutionary rates, and paleophylogeography. Even unidentifiable material can provide useful data for dating geologic units if radiocarbon dating is possible. As such, common fossils (especially vertebrates) may be scientifically important, and therefore considered highly significant.

Recent revisions to Appendix G of the *CEQA Guidelines* include thresholds for potential impacts to Tribal Cultural Resources. In accordance with Appendix G of the *CEQA Guidelines*, an impact to Tribal Cultural Resources from the proposed project would be significant if the project would:

1. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

b. Project Impacts and Mitigation Measures

Thresholds 1:	Would the project cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines §15064.5?
Threshold 2:	Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines §15064.5?

Impact CR-1 CONSTRUCTION OF THE PROPOSED PROJECT WOULD INVOLVE GROUND-DISTURBING ACTIVITIES, SUCH AS GRADING AND SURFACE EXCAVATION, WHICH HAVE THE POTENTIAL TO UNEARTH OR ADVERSELY IMPACT PREVIOUSLY UNIDENTIFIED HISTORICAL AND/OR ARCHEOLOGICAL RESOURCES. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

As discussed in Section 4.4.2.3, *Existing Conditions*, there are no previously identified cultural resources on the project site. However, based on the presence of cultural resources in the project vicinity (i.e., a large shell midden 240 feet (80 meters) north of the project site and the nearby Carmel Mission) as well as sensitivity maps created by the County of Monterey, the project site is in an area of high archaeological sensitivity. Thus, there is a high potential for encountering previously unidentified buried archaeological resources within the project site during ground-disturbing activities.

Because the project would involve ground disturbing activities, such as grading and trenching for utilities, and because of the high sensitivity of the project site and vicinity, the project has a high potential to impact previously unidentified historical and/or archaeological resources. Mitigation is required to reduce impacts to previously unidentified historical and/or archaeological resources.

Mitigation Measures

The following mitigation is required.

CR-1(a) Archaeological Monitoring

Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (NPS 1983). Monitoring activities shall be coordinated with a Native American monitor required under Mitigation Measure CR-3(a). If archaeological resources are encountered during ground-disturbing activities, work in the immediate area shall halt, the County shall be notified, and the find shall be evaluated for significance under CEQA. Archaeological monitoring may be reduced or halted at the discretion of the monitor as warranted by conditions such as encountering bedrock, ground disturbance is occurring in fill, or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new

location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock).

CR-1(b) Unanticipated Discovery of Cultural Resources

If cultural resources are encountered during ground-disturbing activities, work in the immediate area and within 50 feet of the discovery shall halt and the qualified archaeologist shall implement a Phase II subsurface testing program to determine resource boundaries, assess the integrity of the resource, and evaluate the resource's significance through a study of its features and artifacts. Construction activities can continue in areas 50 feet away from the find and not associated with the cultural resource location. If the resource is determined not to be significant, no further archaeological investigation or mitigation shall be required. If the resource is determined to be significant, the County of Monterey may choose to allow the capping of the area containing the resource using culturally sterile and chemically neutral fill material. If such capping occurs, then the qualified archaeologist shall monitor the placement of fill upon the resource. If a significant resource will not be capped, the results and recommendations of the Phase II study shall determine the need for a Phase III data recovery program designed to record and remove significant cultural materials that could otherwise be tampered with or disturbed by project construction. If a Phase III data recovery program is warranted, a Cultural Resources Data Recovery Plan shall be developed by the qualified archaeologist to outline excavation and laboratory procedures. The plan shall be submitted to the County for review and approval prior to proceeding with grading and construction activities. Upon completion of monitoring and any necessary Phase II and/or Phase III excavation, a report shall be submitted to the County for review and approval.

Monitoring Action: Prior to issuance of grading or construction permits and prior to ground disturbing activities, the applicant shall submit a copy of an executed agreement with a qualified archeologist providing the required monitoring services, to the Chief of Planning for review and approval. Prior to final building inspection, the applicant shall submit a letter from a qualified archeologist detailing how the monitoring requirements were met.

Significance After Mitigation

Implementation of Mitigation Measures CR-1(a) through CR-1(b) would reduce impacts to previously unidentified historical and/or archaeological resources to a less than significant level.

Threshold 3:	Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Impact CR-2 CONSTRUCTION OF THE PROPOSED PROJECT WOULD INVOLVE GROUND-DISTURBING ACTIVITIES SUCH AS GRADING AND SURFACE EXCAVATION, WHICH HAVE THE POTENTIAL TO UNEARTH OR ADVERSELY IMPACT PREVIOUSLY UNIDENTIFIED PALEONTOLOGICAL RESOURCES. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

As discussed in Section 4.4.2.3, *Existing Conditions*, surficial sediments within the project site are relatively young in age and are considered to have low sensitivity for paleontological resources. However, the Miocene Monterey Group and Pleistocene sediments of an age known to preserve fossils outcrop in the vicinity of the project site and are likely to be present in the subsurface of the project site. Construction of the proposed project would involve surface excavation and these activities have the potential to unearth and/or impact potentially significant paleontological resources. Thus, excavations that exceed 10 feet in depth, the estimated depth of the young

surficial sediments, would risk impacting fossil resources. Implementation of the following Mitigation Measures would reduce the risk of impacts to fossil resources to below significance.

Mitigation Measures

The following mitigation is required.

CR-2(a) Paleontological Worker Environmental Awareness Program

Prior to the start of construction, a project paleontologist who meets the standards of the SVP (2010) or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying the County and the project paleontologist should fossils be discovered by construction staff. The Worker Awareness Program (WEAP) training requirement shall be fulfilled at the time of a preconstruction meeting.

CR-2(b) Paleontological Monitoring

Ground-disturbing construction activities (including grading, trenching, foundation work, and other excavations) in previously undisturbed sediments that exceed 10 feet in depth shall be monitored on a full-time basis during initial ground disturbance. Monitoring shall be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources and meets the minimum standards of the SVP (2010). The duration and timing of the monitoring shall be determined by the project paleontologist and based upon the location and extent of proposed ground disturbance. If the project paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, the project paleontologist may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Monitoring is not necessary in artificial fill or for activities that do not reach 10 feet in depth.

CR-2(c) Unanticipated Discovery of Paleontological Resources

In the event of a fossil discovery during construction, all work in the immediate vicinity of the find shall cease. A qualified paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant as defined by the SVP (2010), the project paleontologist shall notify the County and complete the following actions to mitigate impacts to significant fossil resources:

1) **Salvage of Fossils.** The project paleontologist (or paleontological monitor) shall recover significant fossils following standard field procedures for collecting paleontological resources, as described by the SVP (2010). Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the paleontologist shall have the authority to temporarily direct, divert, or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner.
2) **Preparation and Curation of Recovered Fossils.** Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the University of California Museum of Paleontology), along with all pertinent field notes,

photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the project paleontologist.

MONITORING ACTION

Prior to issuance of grading or construction permits and prior to any ground disturbing activities, the applicant shall submit a copy of an executed agreement with a qualified paleontologist to provide the required monitoring services, to the Chief of Planning for review and approval. Prior to final building inspection, the applicant shall submit a letter from a qualified paleontologist detailing how the monitoring requirements were met.

Significance After Mitigation

Through the monitoring of ground disturbance and evaluation of any identified paleontological resources, should they be discovered, implementation of Mitigation Measures CR-2 (a) through CR-2(c) would reduce impacts to paleontological resources to a less than significant level.

Threshold 4:	Would the project disturb any human remains, including those interred outside of dedicated cemeteries?

Impact CR-3 CONSTRUCTION OF THE PROPOSED PROJECT WOULD INVOLVE GROUND-DISTURBING ACTIVITIES SUCH AS GRADING AND SURFACE EXCAVATION, WHICH HAVE THE POTENTIAL TO UNEARTH OR ADVERSELY IMPACT PREVIOUSLY UNIDENTIFIED HUMAN REMAINS. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION MEASURES CR-1 AND CR-4 INCORPORATED.

The discovery of human remains is always a possibility during ground disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the county coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the Monterey County Coroner must be notified immediately. If the human remains are determined to be prehistoric, the coroner is required to notify the NAHC, which would determine and notify a most likely descendant (MLD). The MLD must complete the inspection of the site within 48 hours of notification and may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. If human remains are identified and OCEN is identified as the MLD, it is their preference that any identified Native American human remains be reburied on-site or on an acceptable alternative site provided by the developer, together with all artifacts found with the burial. With adherence to existing regulations relating to human remains, and given that an Archaeological monitor (pursuant to Mitigation Measure CR-1) and an OCEN tribal monitor (pursuant to Mitigation Measure CR-4) will be present at the site during digging, impacts would be less than significant.

Mitigation Measures

Mitigation Measures CR-1 and CR-4 are required to reduce potential impacts to previously unidentified remains.

Significance After Mitigation

An archaeological monitor and an OCEN tribal monitor would be present on the site during disturbing activities such as grading and excavation; therefore, implementation of Mitigation

Measures CR-1 through CR-4 would reduce impacts to human remains to a less than significant level.

Threshold 5:	Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

Impact CR-4 **THOUGH NO TRIBAL CULTURAL RESOURCES HAVE BEEN IDENTIFIED WITHIN THE PROJECT SITE, THE POTENTIAL TO UNEARTH OR ADVERSELY IMPACT TRIBAL CULTURAL RESOURCES REMAINS. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.**

As described in the Section 4.4.2.3, *Existing Conditions*, the County of Monterey prepared and mailed letters to California Native Americans in accordance with AB 52 on August 18, 2017. On September 12, 2017, the County met with Chairwoman Louise Miranda-Ramirez of OCEN to discuss the project. No specific tribal cultural resources have been identified at the project site; however, OCEN has identified the project site as sensitive for potential cultural and/or tribal cultural resources due to its proximity to the Carmel River and Carmel Mission. Due to the sensitivity of the project site, mitigation is required to address impacts to previously unidentified tribal cultural resources. With the incorporation of the following Mitigation Measures, impacts to previously unidentified tribal cultural resources would be less than significant.

Mitigation Measures

The following mitigation is required.

CR-4(a) Native American Monitoring

An OCEN Tribal Monitor shall be retained to be on site to monitor all project-related ground-disturbing construction activities (i.e., grading, excavation, potholing, etc.) within previously undisturbed soils.

CR-4(b) Unanticipated Discovery of Tribal Cultural Resources

In the event the OCEN Tribal Monitor identifies tribal cultural resources, the monitor shall be given the authority to temporarily halt construction in the immediate vicinity and within 50 feet of the discovery and to determine if it is a tribal cultural resource under CEQA in consultation with the County of Monterey and, if necessary, the qualified archaeologist. Construction activities can

continue in areas 50 feet away from the find and not associated with the cultural resource location. If the discovery proves to be significant, additional work such as testing or data recovery may be warranted. Any resources found should be treated with appropriate dignity and respect. At the completion of monitoring activities, all artifacts of Native American origin shall be returned to OCEN through the tribal monitor.

MONITORING ACTION

Prior to issuance of building or grading permits, the applicant shall provide appropriate agreements with an OCEN Tribal monitor to the Chief of Planning for review and approval. Prior to final building permit inspection, the applicant shall provide documentation in writing including photos demonstrating that the mitigation was implemented during construction activities.

Significance After Mitigation

Through Native American monitoring of ground disturbance and evaluation of potential tribal cultural resources, should they be discovered, implementation of Mitigation Measures CR-4(a) and CR-4(b) would reduce impacts to tribal cultural resources to a less than significant level.

Cumulative Impacts

The project, in conjunction with other nearby planned, pending, and potential future projects in the County of Monterey as discussed in Section 3, *Environmental Setting*, would have the potential to adversely impact cultural resources. Cumulative development in the region would continue to disturb areas with the potential to contain cultural and tribal cultural resources. It is anticipated that for other developments that would have significant impacts on cultural and tribal cultural resources, similar Mitigation Measures described herein would be imposed on those other developments, along with requirements to comply with all applicable laws and regulations governing said resources. With the proposed Mitigation Measures identified in this section of the EIR, coupled with policies and regulations applying to this and other projects, such impacts to cultural and tribal cultural resources would be less than significant at the project level. As such, the proposed project would not contribute to cumulative impacts on cultural and tribal cultural resources outside the project site. In addition, individual development proposals are reviewed separately by the appropriate jurisdiction and undergo environmental review when it is determined that the potential for significant impacts exist. In the event that future cumulative projects would result in impacts to known or unknown cultural or tribal cultural resources, impacts to such resources would be addressed on a case-by-case basis. Therefore, impacts related to cultural and tribal cultural resources would not be cumulatively considerable.

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